

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6558 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SURYA SAT INDUSTRIES

Versus

STATE OF GUJARAT

Appearance:

MRS KETTY A MEHTA for Petitioners
Mr.B.Y.Mankad, learned A.G.P.
for Respondent Nos. 1 & 2
MR PR NANAVATI for Respondent No. 3

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 30/03/99

ORAL JUDGEMENT

The petitioners claim to be a partnership Firm, all the partners being the members of Scheduled Caste claiming experience in the manufacturing of salt from sea water. The petitioner Firm is working in the name of Surya Salt Industries. The petitioner had applied on 29.1.96 for an area admeasuring 330 Acres in S.No.169 of

village Dhrub, Taluka Mundra for manufacturing salt. This Application dt.29.1.96 was rejected by the Collector, Kutch on 2.6.98 on the ground that the land in question was meant for the development of Mundra Port and for the future needs of the said Mundra Port and the Port Industries, and whereas the Gujarat Maritime Board had not given no objection with regard to the giving of the said land for the purpose of manufacturing the salt, the petitioners' request could not be accepted. This order dt.2.6.98 has been challenged by the petitioners before this Court on grounds more than one. Arguments were heard and the matter was posted for dictation of order for today on 22.3.99. It may be pointed out that during the course of arguments on 17.3.99 it was pointed out by Mr. Nanavati and Mr. Umesh Trivedi that they may come with some feasible proposal, which may be acceptable to the petitioners also. Such proposals have been revealed today before this Court. It has been given out by Mr. Mankad, the learned A.G.P. that beyond the port land and before the port limits of Mundra Port, there is a land admeasuring 40 Acres is available in S.No.169 and the land admeasuring 150 acres is available in S.No.141, and that these lands can be given and used for the purpose of manufacturing the salt because this land is beyond the port land area of 52000 Acres. Mr.Nanavati appearing on behalf of the Gujarat Maritime Board has submitted that the Gujarat Maritime Board has no objection if the land, as aforesaid, i.e. 40 acres out of S.No.169 and 150 Acres out of S.No.141 is allowed to be used for the purpose of manufacturing the salt on usual terms and conditions.

Ms. Mehta, learned counsel for the petitioners, has submitted that even if the lands, as aforesaid, i.e. 40 acres out of S.No.169 and 150 Acres out of S.No.141 i.e. 190 Acres in all, is made available to the petitioners, the petitioners are ready to reduce their demand from 330 Acres to 190 Acres at the location, as aforesaid, where 150 acres + 40 acres of the land is said to be available.

It is the common case of all the parties that the relevant Circular in this regard issued by the Revenue Department is Circular dated 31.12.81, a copy of which has been enclosed with the petition as Annexure 22 at page 116. In this Circular, it has been mentioned at page 10 para 3.2 that, that applicant who applies first shall have the first claim i.e. first come first served, subject to certain categories, which were further detailed out therein, and such categories also include the applicants who apply for maintenance of their family.

Category No.5 says that the members of the backward classes have to be given first preference.

In the facts and circumstances of this case, it is very clear that the area in respect of which the petitioners had initially applied on 29.1.96 is not available for the purpose for which the land was sought as that land falls in the area of the port land and the Gujarat Maritime Board is not prepared to give its no objection. Thus, the application made by the petitioners may, therefore, be treated to be an application in respect of S.No.141 with regard to the available area of 150 Acres and with regard to S.No.169 with regard to the available area of 40 Acres and on that basis the petitioners application could be considered in respect of the areas, as aforesaid, in accordance with the Revenue Department's Circular dt.31.12.81.

Whereas the Gujarat Maritime Board has no objection with regard to the use of the land, as aforesaid, for the purpose of manufacturing salt, it is ordered that even if there is any application of any other applicant with regard to the same area i.e. 40 acres in S.No.169 and 150 Acres in S.No.141, the petitioners request for 190 Acres instead of 330 Acres shall be considered in respect of the area, as aforesaid. Mr.Mankad for the petitioners has pointed out that there is no application so far as 40 Acres of land in S.No.169 is concerned. The petitioners' case for 40 acres in S.No.169 and 150 Acres in S.No.141 shall, therefore, be considered in accordance with the Revenue Department's Circular dt.31.12.81, as aforesaid, and while considering so, earlier date of application shall be given due weightage as also the fact that the petitioner is a Firm, whose partners are members of the Scheduled Caste and, therefore, subject to the condition No.5 petitioners' case shall be decided with reference to the initial date of the application i.e. 29.1.96. The concerned authority shall follow the principle of first come first served as also the other relevant conditions including that of the applicants being the members of the backward classes and all other terms mentioned in the Revenue Department Circular dt.31.12.81. Now that the Gujarat Maritime Board has already stated that it has no objection with reference to the land, as aforesaid, it is directed that this exercise shall be completed as early as possible but in no case later than 15.5.99. This order has been passed with the consensus of all the parties and, therefore, there should not be any difficulty with the concerned authority in processing the matter and passing appropriate orders within the time limit granted

by the Court.

This Special Civil Application is decided accordingly on the basis of the consensus arrived at between the parties and the Rule is also made absolute in the terms as aforesaid.No order as to costs.

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